

TITLE 75

CHAPTER 6

Part 2

Drinking Water State Revolving Fund Act

75-6-201. Short title. This part may be cited as the "Drinking Water State Revolving Fund Act".

History: En. Sec. 1, Ch. 553, L. 1995; amd. Sec. 13, Ch. 538, L. 1997.

75-6-202. Definitions. Unless the context requires otherwise, in this part, the following definitions apply:

(1) "Administrative costs" means costs incurred by the department and the department of natural resources and conservation in the administration of the program, including but not limited to:

- (a) costs of servicing loans and issuing debt;
- (b) program startup costs;
- (c) financial, management, and legal consulting fees; and
- (d) reimbursement costs for support services from other state agencies.

(2) "Community water system" means a public water system that is owned by a private person or a municipality and that serves at least 15 service connections used by year-round residents of the area served by the system or regularly serves at least 25 year-round residents. The term does not include a public water system that is owned by the federal government.

(3) "Cost" means, with reference to a project, all capital costs incurred or to be incurred for a public water system, including but not limited to:

- (a) engineering, financing, and other fees;
- (b) interest during construction;
- (c) construction; and
- (d) a reasonable allowance for contingencies to the extent permitted by the federal act and rules promulgated under the federal act.

(4) "Department" means the department of environmental quality provided for in 2-15-3501.

(5) "Disadvantaged community" means one in which the service area of a public water system meets the affordability criteria established by rule adopted pursuant to this part.

(6) "Federal act" means the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as that act read on May 5, 1997.

(7) "Indian tribe" means an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

(8) "Intended use plan" means the annual plan adopted by the department and submitted to the environmental protection agency that describes how the state intends to use the money in the revolving fund.

(9) "Loan" means a loan of money from the revolving fund for project costs.

(10) "Municipality" means a state agency, city, town, or other public body, including an authority as defined in 75-6-304, created pursuant to state law or an Indian tribe.

(11) "Noncommunity water system" means a public water system that is not a community water system.

(12) "Nonprofit noncommunity water system" means a noncommunity water system owned by an organization that is organized under Montana law and that qualifies as a tax-exempt organization under the provisions of section 501(c)(3) of the Internal Revenue Code.

(13) "Private person" means an individual, corporation, partnership, or other nongovernmental legal entity.

(14) "Program" means the drinking water state revolving fund program established by this part.

(15) "Project" means improvements or activities that are:

(a) to be undertaken for a public water system and that are of a type that will facilitate compliance with the national primary drinking water regulations applicable to the system; or

(b) to further the health protection objectives of the federal act.

(16) "Public water system" means a system for the provision to the public of water for human consumption, through pipes or other constructed conveyances, if that system has at least 15 service connections or regularly serves at least 25 individuals. The term includes any collection, treatment, storage, and distribution facilities under control of an operator of a system that are used primarily in connection with a system and any collection or pretreatment storage facilities not under control of an operator and that are used primarily in connection with a system.

(17) "Revolving fund" means the drinking water state revolving fund established by 75-6-211.

History: En. Sec. 2, Ch. 553, L. 1995; amd. Sec. 14, Ch. 538, L. 1997; amd. Sec. 23, Ch. 498, L. 1999.

75-6-203. Drinking water state revolving fund program. There is a program under which the state may provide financial assistance to community water systems and nonprofit noncommunity water systems. The program must be administered in accordance with this part and the federal act.

History: En. Sec. 3, Ch. 553, L. 1995; amd. Sec. 15, Ch. 538, L. 1997.

75-6-204. Authorization of agreement -- content. (1) The department may enter into a capitalization grant agreement or other agreement with the environmental protection agency to implement the program and may accept from that agency other grants and loans to carry out the program.

(2) In entering into an agreement, the director of the department may commit the state to:

(a) accept grant payments from the environmental protection agency in accordance with the schedule established by the administrator of that agency and deposit the payments in the revolving fund established in 75-6-211;

(b) deposit in the revolving fund from state money an amount equal to at least 20% of the total amount of all capitalization grants made to the state as provided by 75-6-211 on or before the date on which each federal grant payment is made to the state;

(c) deposit in the nonproject account for department programs authorized under section 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)) a state match equal dollar-for-dollar to the capitalization grant deposited in the account;

(d) provide financial and technical assistance to a public water system in accordance with this part in an amount equal to 120% of the amount of each grant payment within a period not to exceed 1 year after receipt of a grant;

(e) expend all funds in the revolving fund in an expeditious and timely manner;

(f) use all funds deposited in the revolving fund as a result of the capitalization grant to ensure progress, as determined by the governor, toward compliance with enforceable deadlines, goals, and requirements of the federal act;

(g) expend each grant payment in accordance with the laws and procedures applicable to commitment or expenditure of revenue of the state;

(h) use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(i) make biennial reports and provide annual audits to the environmental protection agency concerning the use of the revolving fund as required by the federal act; and

(j) any other covenants, commitments, and obligations necessary to ensure that the state's administration of the program is consistent with the provisions of this part and the federal act.

(3) As a condition of making a loan or providing other financial assistance from the revolving fund, the department shall require that the public water system maintain project accounts in accordance with generally accepted government accounting standards.

History: En. Sec. 4, Ch. 553, L. 1995; amd. Sec. 16, Ch. 538, L. 1997.

75-6-205. Rulemaking authority. The department and the department of natural resources and conservation may adopt rules within their respective authorities established within the provisions of this part, including rules:

(1) prescribing the form and content of applications for loans and technical assistance;

(2) governing the application of the criteria for awarding loans and technical assistance;

(3) establishing additional terms and conditions for the making of loans and the security instruments and other necessary agreements;

(4) establishing ceilings on the amount of individual loans to be made if considered appropriate and necessary for the successful administration of the program;

(5) establishing affordability criteria to be used in awarding subsidies to disadvantaged communities;

(6) regarding other matters that may be required to ensure compliance of the program with the provisions of the federal act and rules promulgated under the federal act, unless these matters are specifically governed by this part; and

(7) to maintain the financial integrity of the program.

History: En. Sec. 5, Ch. 553, L. 1995; amd. Sec. 268, Ch. 42, L. 1997; amd. Sec. 17, Ch. 538, L. 1997.

75-6-206 through 75-6-210 reserved.

75-6-211. Revolving fund. (1) There is established in the state treasury a separate account designated as the drinking water state revolving fund. The corpus of the fund must be available in perpetuity for providing assistance under this part. There are established within the revolving fund a federal allocation account, a state allocation account, an administration account, an investment income account, and a debt service account. A nonproject account for

the program is established in the state treasury as a separate account that is outside the revolving fund.

(2) There must be credited to:

(a) the federal allocation account:

(i) all amounts received by the state pursuant to the federal act as capitalization grants for a state revolving fund to provide loans or other assistance, as authorized under this part, to community water systems and nonprofit noncommunity water systems; and

(ii) all amounts transferred to the fund from the water pollution control state revolving fund under 75-5-1106;

(b) the state allocation account:

(i) the net proceeds of bonds of the state issued pursuant to 75-6-225, less any proceeds deposited to the administration account as provided in subsection (2)(c)(ii);

(ii) money appropriated by the legislature; and

(iii) other available qualifying funds;

(c) the administration account, an amount not to exceed 4% of the federal capitalization grant award or the maximum amount allowed by the federal act for payment of administrative costs and that may include a combination of:

(i) federal funds; and

(ii) the proceeds of bonds of the state issued pursuant to 75-6-225 as the department determines necessary and as required by the federal act for state matching funds to assist in administering the program;

(d) the investment account, all money received from investment of amounts in those accounts in the revolving fund designated by the board of examiners in the resolution or trust indenture authorizing the issuance of bonds;

(e) the debt service account, the interest portion of loan repayments; and

(f) the nonproject account for department programs authorized under section 300j-12(g)(2) of the federal act (42 U.S.C. 300j-12(g)(2)), up to 10% of the capitalization grant and the state's match as described in 75-6-204.

(3) Each loan made under this part must be funded and disbursed from the federal allocation account or the state allocation account, or both, by the department of natural resources and conservation as recommended by the department. All amounts received in payment of principal or interest on a loan must be credited to the revolving fund. If bonds have been issued pursuant to 75-6-225 and are outstanding, the interest payments must be transferred to the debt service account securing the bonds. Money in the debt service account that is not required for debt service may be transferred to other accounts within the revolving fund as provided in the resolution or trust indenture authorizing the bonds. The department may transfer payments and prepayments of the principal of loans deposited in the state allocation account to the state allocation account of the state's water pollution control revolving fund program.

(4) The department of natural resources and conservation may establish additional accounts and subaccounts within the revolving fund that it considers necessary to account for the program money and to ensure compliance with the federal act and this part.

(5) As allowed under the federal act, the governor may reserve or transfer to the state's water pollution control revolving fund up to 33% of the state's drinking water revolving fund program capitalization grant. The transfer of funds must be included in the intended use plan in 75-6-231.

History: En. Sec. 6, Ch. 553, L. 1995; amd. Sec. 269, Ch. 42, L. 1997; amd. Sec. 18, Ch. 538, L. 1997; amd. Sec. 5, Ch. 421, L. 1999.

75-6-212. Use of revolving fund. (1) Money in the revolving fund may be used to:

- (a) make loans to community water systems and nonprofit noncommunity water systems as provided in this part;
 - (b) buy or refinance the debt obligation of a municipality at an interest rate that does not exceed market rates, provided that the obligations were incurred and construction of the project began after July 1, 1993;
 - (c) guarantee or purchase insurance in order to enhance credit or reduce interest rates for obligations of municipalities that are issued to finance eligible projects;
 - (d) leverage the total amount of revolving funds available by providing a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state, the net proceeds of which are deposited in the revolving fund;
 - (e) pay reasonable administrative costs of the program, not to exceed 4% of the annual capitalization grant or the maximum amount allowed under the federal act;
 - (f) if matched by an equal amount of state funds, pay the department's costs in an amount not to exceed 10% of the annual capitalization grant for the following:
 - (i) public water system supervision programs;
 - (ii) administering or providing technical assistance through source water protection programs;
 - (iii) developing and implementing a capacity development strategy under section 300g-9 of the federal act (42 U.S.C. 300g-9); and
 - (iv) administering an operator certification program in order to meet the requirements of section 300g-8 of the federal act (42 U.S.C. 300g-8);
 - (g) pay the costs in an amount not to exceed 2% of the annual capitalization grant for the purpose of providing technical assistance to public water systems serving 10,000 or fewer persons. No less than 1.5% of the annual capitalization grant must be contracted by the department to private organizations or individuals for the purposes of this subsection.
 - (h) reimburse the expenses, as provided for in 2-18-501 through 2-18-503 and 5-2-302, of the advisory committee established pursuant to 75-6-231 while on official committee business.
- (2) Except as provided in subsection (3), money in the fund may not be used for:
- (a) expenditures related to monitoring, operation, and maintenance;
 - (b) the acquisition of real property or any interest in real property, unless the acquisition is integral to a project authorized under this part and the purchase is from a willing seller;
 - (c) providing assistance to a public water system that:
 - (i) does not have the financial, managerial, and technical capability to ensure compliance with the requirements of the federal act; or
 - (ii) is in significant noncompliance with any requirement of a national primary drinking water regulation or variance; or
 - (d) any other activity prohibited from funding under the federal act.
- (3) (a) A public water system described in subsection (2)(c) may receive assistance under this part if:
- (i) the use of the assistance will ensure compliance; and
 - (ii) for a system that the department has determined does not have the financial, managerial, or technical capability to ensure compliance with the federal act, the owner or operator of the system agrees to undertake feasible and appropriate changes in operations, including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures, as determined necessary by the department to ensure compliance.

(b) Prior to providing assistance to a public water system that is in significant noncompliance with any requirement of a national primary drinking water regulation or variance pursuant to the federal act, the department shall determine whether the provisions of subsection (2)(c)(i) apply to the system.

History: En. Sec. 7, Ch. 553, L. 1995; amd. Sec. 19, Ch. 538, L. 1997.

75-6-213. Repealed. Sec. 27, Ch. 538, L. 1997.

History: En. Sec. 8, Ch. 553, L. 1995.

75-6-214. Use of funds -- statutory appropriation. Money in the revolving fund is statutorily appropriated, as provided in 17-7-502, for the purposes of providing financial assistance to public water systems.

History: En. Sec. 9, Ch. 553, L. 1995; amd. Sec. 54, Ch. 422, L. 1997.

75-6-215. Repealed. Sec. 27, Ch. 538, L. 1997.

History: En. Sec. 10, Ch. 553, L. 1995.

75-6-216 through 75-6-220 reserved.

75-6-221. General loan and assistance program. (1) The program may, subject to the requirements in 75-6-222 through 75-6-224, make loans to community water systems and nonprofit noncommunity water systems that:

(a) will facilitate compliance with national primary drinking water regulations pursuant to the federal act; or

(b) will further the health protection objectives of the federal act, including but not limited to projects that involve:

(i) upgrading and replacing infrastructure;

(ii) addressing exceedances of the federal act or preventing future violations;

(iii) consolidating water supplies;

(iv) the acquisition of land, at fair market value, that is integral to the project;

(v) planning and designing of a project; or

(vi) other activities allowed under the federal act.

(2) In addition to loans authorized under subsection (1), the program may make loans to public water systems for one or more of the following purposes:

(a) to a community water system or nonprofit noncommunity water system to acquire land or a conservation easement from a willing party if the land is necessary to ensure compliance with the national primary drinking water regulations or to protect the source of water from contamination;

(b) to a community water system to implement local, voluntary source water protection measures in order to protect source water in areas delineated under a source water assessment program in order to facilitate compliance with the national primary drinking water regulations or otherwise significantly further the health protection objectives of the federal act;

(c) to a community water system to provide funding for the development and implementation of a source water quality assessment, contingency plans, and demonstration projects for partners within a delineated source water area.

(3) The department may:

(a) provide financial and technical assistance to any public water system as part of a capacity development strategy developed and implemented in accordance with the federal act;

(b) make expenditures from the capitalization grant to delineate and assess source water protection areas, provided that funds set aside for such expenditures must be obligated within 4 fiscal years; and

(c) make expenditures from the fund for the establishment and implementation of wellhead protection programs.

(4) The program may provide financial assistance to a public water system according to priorities established by the department in the department's intended use plan adopted pursuant to 75-6-231. Prior to making a loan to a public water system, the department of natural resources and conservation shall determine that the system has the ability to repay the loan according to its terms and conditions and may require a dedicated source of repayment and impose additional requirements.

(5) The total amount of assistance provided and expenditures made by the program under subsections (2) and (3) may not exceed 15% of the amount of the capitalization grant received by the department for that year and may not exceed 10% of that amount for any one of the activities listed under subsection (2) or (3).

History: En. Sec. 11, Ch. 553, L. 1995; amd. Sec. 23, Ch. 538, L. 1997.

75-6-222. Evaluation of projects and loan applications. The department and the department of natural resources and conservation shall evaluate projects and loan applications. In evaluating projects and applications, the following factors must be considered:

(1) the technical design of the project to ensure compliance with all applicable statutes, rules, and design standards;

(2) the financial capacity of the applicant;

(3) the financial, managerial, and technical ability of the applicant to properly operate and maintain the project;

(4) the total financing of the project to ensure completion;

(5) the viability of the public water system;

(6) the ability of the public water system to pay the costs of the project without the requested financial assistance;

(7) the total amount of loan funds available for financial assistance in the revolving fund;

(8) the total amount requested by other applications that have been received or that are likely to be received;

(9) the ranking of the project on the priority list in the intended use plan; and

(10) any other criteria that the department determines to be appropriate, considering the purposes of the program and the federal act.

History: En. Sec. 12, Ch. 553, L. 1995; amd. Sec. 24, Ch. 538, L. 1997.

75-6-223. Applications for loans. (1) The department shall, after consultation with the department of natural resources and conservation, establish loan application procedures, including forms for the applications. Each application for a loan must include:

(a) a reasonably detailed description of the project;

(b) a reasonably detailed estimate of the cost of the project;

(c) a timetable for the construction of the project and for payment of the cost of the project;

(d) identification of the source or sources of funds to be used in addition to the proceeds of the loan to pay the cost of the project;

(e) the source or sources of revenue proposed to be used to repay the loan;

(f) a current financial statement of the system showing assets, liabilities, revenue, and expenses;

(g) a statement as to whether, at the time of application, there are any outstanding loans, notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a description of the loans, notes, bonds, or other obligations;

(h) if the applicant is a private person, a statement as to whether, at the time of the application, there are any outstanding loans, notes, or other obligations of the private person and, if so, a description of the loans, notes, or other obligations; and

(i) any other information that the department or the department of natural resources and conservation may require to determine the feasibility of a project and the applicant's ability to repay the loan, including but not limited to:

(i) engineering reports;

(ii) economic feasibility studies; and

(iii) legal opinions.

(2) Each application for a loan subsidy must include:

(a) a reasonably detailed description of the project;

(b) a reasonably detailed estimate of the cost of the project;

(c) a timetable for the construction of the project and for payment of the cost of the project;

(d) identification of the source or sources of funds to be used in addition to the proceeds of the loan to pay the cost of the project;

(e) a statement as to whether, at the time of application, there are any outstanding loans, notes, bonds, or other obligations payable from the revenue of the public water system and, if so, a description of the loans, notes, bonds, or other obligations;

(f) an explanation, including supporting information, as to why a loan subsidy is requested;

(g) evidence that the applicant qualifies as a disadvantaged community; and

(h) any other information that the department or the department of natural resources and conservation may require.

History: En. Sec. 13, Ch. 553, L. 1995; amd. Sec. 25, Ch. 538, L. 1997.

75-6-224. Loan conditions. (1) Upon approval of an application by the department, the department of natural resources and conservation may lend amounts on deposit in the revolving fund to a public water system to pay part or all of the cost of a project. The loan is subject to the applicant complying with the following conditions:

(a) meeting requirements of financial capability set by the department of natural resources and conservation to ensure sufficient revenue to operate and maintain the project for its useful life and to repay the loan, including the establishment of a dedicated source of revenue and the establishment and maintenance by the applicant of a reserve or revolving fund to secure the payment of principal of and interest on the loan to the extent permitted by the applicable law governing the public water system or the applicant's financial authority;

(b) in the case of a system owned by a private person, in addition to establishing a dedicated source of revenue, which may include the pledge of accounts receivable, providing, as required by the department of natural resources and conservation, credit enhancements, a pledge of collateral, or other types of security, such as a corporate or personal guarantee;

(c) agreeing to operate and maintain the project properly over its structural and material design life, which may not be less than the term of the loan;

(d) agreeing to maintain proper financial records in accordance with generally accepted accounting standards and agreeing that all records are subject to audit;

(e) meeting the requirements listed in the federal act for projects constructed with funds directly made available by federal capitalization grants;

(f) providing legal assurance that all necessary property titles, easements, and rights-of-way have been obtained to construct, operate, and maintain the project;

(g) submitting an engineering report evaluating the proposed project, including information demonstrating its cost-effectiveness and environmental information necessary for the department and the department of natural resources and conservation to fulfill their responsibilities under the Montana Environmental Policy Act and rules adopted to implement that act;

(h) complying with plan, specification, and other requirements for public water systems established by the department;

(i) providing for proper construction inspection and project management; and

(j) meeting requirements of financial, managerial, and technical capability to maintain compliance with the federal act.

(2) Each loan, unless prepaid, is payable subject to the limitations of the federal act, with interest paid in annual or more frequent installments, the first of which must be received not more than 1 year after the completion date of the project and the last of which must be received not more than 20 years after the completion date. If the applicant is a disadvantaged community that has qualified and applied for a loan subsidy, the department may determine that the last installment must be received not more than 30 years after the completion date, provided that the period of the loan does not exceed the expected design life of the project.

(3) (a) Subject to the limitations of the federal act, the interest rate on a loan must ensure that the interest payments on the loan and on other outstanding loans will be sufficient, if timely paid in full, with other available funds in the revolving fund, including investment income, to enable the state to pay the principal of and interest on the bonds issued pursuant to 75-6-225.

(b) The interest rate may include any additional rate that the department of natural resources and conservation considers reasonable or necessary to provide a reserve for the repayment of the loans. The additional rate may be fixed or variable, may be calculated according to a formula, and may differ from the rate established for any other loan. Once the reserve has been established at a level considered by the department to be reasonable and prudent for the amount of the loans outstanding, the department may use excess reserve payments to make grants to aid in the feasibility of projects.

(4) Each loan must be evidenced by a bond, note, or other evidence of indebtedness of the borrower, in a form prescribed or approved by the department of natural resources and conservation, except that the bond, note, or other evidence must include provisions required by the federal act and must be consistent with the provisions of this part. The bond, note, or other evidence is not required to be identical for all loans.

(5) As a condition to making a loan, the department of natural resources and conservation, with the concurrence of the department, may impose a reasonable administrative fee that may be paid from the proceeds of the loan or other available funds of the municipality or private person. Administrative fees may be deposited:

(a) in a special administrative costs account that the department of natural resources and conservation may create for that purpose outside the revolving fund provided for in 75-6-211; or

(b) in the administrative account provided for in 75-6-211. In determining into which account the administrative fees are deposited, the department shall take into consideration the needs and requirements of the programs. Money deposited in the special administrative costs account or the administration account must be used for the payment of administrative costs of the program.

History: En. Sec. 14, Ch. 553, L. 1995; amd. Sec. 26, Ch. 538, L. 1997; amd. Sec. 6, Ch. 421, L. 1999.

75-6-225. Authorization of bonds -- allocation of proceeds. (1) The board of examiners is authorized, upon request of the department of natural resources and conservation, to issue and sell bonds of the state as authorized by the legislature to provide money for the program. The bonds are general obligations on which the full faith, credit, and taxing powers of the state are pledged for payment of the principal and interest. The bonds must be issued as provided by Title 17, chapter 5, part 8.

(2) The proceeds of the bonds, other than any premium and accrued interest received, the amounts to be used to pay interest on the bonds, or the costs of issuing the bonds, are allocated to the state allocation account or the administration account of the revolving fund, as provided in 75-6-211. Any premium and accrued interest and bond proceeds to be used to pay interest must be deposited in the debt service account of the revolving fund. Proceeds of bonds to be used to pay the costs of issuing the bonds must be deposited in a cost of issuance account established outside of the revolving fund by the board of examiners in the resolution or trust indenture authorizing the issuance of the bonds. For purposes of 17-5-803 and 17-5-804, the state allocation account and the cost of issuance account constitute a capital projects account. The proceeds must be available to the department and the department of natural resources and conservation and may be used for the purposes authorized in this part without further budgetary authorization.

(3) In the resolution authorizing the sale and issuance of the bonds, the board of examiners, upon the request of the department of natural resources and conservation, may create separate accounts or subaccounts to provide for the payment security of the bonds and may pledge the revolving fund and the interest component of the loan repayments credited to the revolving fund as security for the bonds.

(4) (a) The board of examiners may allow bonds issued under this section to be secured by a trust indenture between the board of examiners and a trustee. The trustee may be a trust company or bank having the power of a trustee inside or outside the state.

(b) If the board of examiners elects to issue bonds pursuant to a trust indenture, the trustee may, as determined by the board of examiners, hold one or more of the funds and accounts created pursuant to this chapter.

(c) In addition to provisions that the board of examiners determines to be necessary and appropriate to secure the bonds, to provide for the rights of the bondholders, and to ensure compliance with all applicable law, the trust indenture must contain provisions that:

(i) govern the custody, safeguarding, and disbursement of all money held by the trustee under the trust indenture; and

(ii) permit representatives of the state treasurer, department, or department of natural resources and conservation, upon reasonable notice and at reasonable times, to inspect the trustee's books and records concerning the trust indenture.

(d) A trust indenture or an executed counterpart of a trust indenture developed pursuant to this chapter must be filed with the secretary of state.

History: En. Sec. 15, Ch. 553, L. 1995; amd. Sec. 7, Ch. 421, L. 1999.

75-6-226. Loan subsidy for disadvantaged communities. (1) Notwithstanding any other provision in this part, if the program makes a loan pursuant to 75-6-221(1) to a disadvantaged community or to a community that the department expects to become a disadvantaged community as a result of a proposed project, the department may provide additional subsidization in the form of a reduced interest rate.

(2) The total annual amount of loan subsidies made by the department pursuant to subsection (1) may not exceed 30% of the capitalization grant received by the department for each fiscal year.

History: En. Sec. 20, Ch. 538, L. 1997.

75-6-227. Creation of debt. The legislature, through enactment of this section, authorizes the creation of state debt in an amount not to exceed \$20 million and authorizes the issuance and sale of general obligation bonds in this amount for the purpose of providing the state's share of the drinking water program.

History: En. Sec. 16, Ch. 553, L. 1995; amd. Sec. 4, Ch. 421, L. 1999.

75-6-228 through 75-6-230 reserved.

75-6-231. Intended use plan -- advisory committee. (1) The department shall prepare an annual intended use plan for the state that meets the requirements of section 300j-12(b) of the federal act (42 U.S.C. 300j-12(b)).

(2) The intended use plan must include:

(a) a list of projects in the state that are eligible for assistance, including both the priority assigned to each project based on public health needs and on the financial needs of the project and, to the extent known, the expected funding schedule for each project; and

(b) a description of the funds to be allocated to activities under 75-6-212 and 75-6-221(2) and funds to be transferred to or received by the water pollution control state revolving fund, as allowed in 75-6-211(5), for the annual fiscal period following publication of the intended use plan.

(3) Before finalizing an intended use plan, the department shall prepare a draft document containing the information required in subsection (2) and shall provide public notice and opportunity to comment on the draft document.

(4) (a) Following the public comment period provided for in subsection (3) and any department modifications to the intended use plan resulting from the public comment, a summary of the public comment and the intended use plan must be presented for review, comment, and recommendations to an advisory committee formed by the department and consisting of six individuals from the following entities appointed by their respective presiding officers, directors, or executive officials:

(i) one member from the Montana league of cities and towns;

(ii) one member from the Montana association of counties;

(iii) one member from the department of natural resources and conservation;

(iv) one member from the department of environmental quality; and

(v) two members from the joint legislative subcommittee on natural resources. One member must be from the house of representatives and one from the senate, and they may not represent the same political party.

(b) The advisory committee is attached to the department for administrative purposes only.

(5) The department shall address in writing any comments and recommendations provided by the advisory committee provided for in subsection (4) before finalizing an intended use plan and prior to awarding any contracts under 75-6-212(1)(g).

History: En. Sec. 21, Ch. 538, L. 1997.

75-6-232. Insurance and guarantee program. (1) The revolving fund may be used to purchase insurance for or guarantee the timely payment of principal and interest on a debt obligation issued by a municipality if the department of natural resources and conservation determines that the guarantee or insurance would improve the credit market access of the municipality or reduce the interest rate on the municipal obligation.

(2) The department of natural resources and conservation shall adopt rules setting forth the conditions under which the program will guarantee or insure municipal obligations, including the amount of fees to be charged for the guarantee or the purchase of insurance and the amount of reserves, if any, to be established in the fund to cover any guarantee. The program may not be used to guarantee a municipal obligation for a project or municipality not meeting the requirements of 75-6-224, except to the extent that they are inconsistent with the guarantee.

History: En. Sec. 22, Ch. 538, L. 1997.

75-6-233 through 75-6-235 reserved.

75-6-236. Projects funded by federal government appropriations. For projects that are funded in part by appropriations from the federal government over a term of years, that have been approved by the department and the department of natural resources and conservation under 75-6-222, and that are considered to be in compliance with 75-6-224, the department of natural resources and conservation may advance money to a public water system in anticipation of the receipt of federal funds by the public water system on the following conditions:

(1) congress has authorized the project and has committed to fund the project at a specified dollar amount over a period of years;

(2) other funding agencies will not authorize construction of the project to begin until there is evidence that construction money will be available to the public water system to pay all of the construction costs;

(3) the department and the department of natural resources and conservation determine that it is in the best interest of the state and the state's objectives under the program that the project begin construction prior to the receipt of all federal appropriations; and

(4) the advance of the money will be in the form of a note that is issued pursuant to 7-7-109 in anticipation of a federal grant for which the public water system promises to pay and pledges to the department of natural resources and conservation the proceeds of the grant when received.

History: En. Sec. 2, Ch. 9, L. 2001.